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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,
11
12 Plaintiff,
13 v.
14 JOHN ANTHONY MILLER,
15 Defendant.

Case No. 2:23-cr-00221-JAD-DJA

**STIPULATION TO CONTINUE
MOTION DEADLINES AND
TRIAL DATES**
(First Request)

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17 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M.
18 Frierson, United States Attorney, and Jacob Operskalski, Assistant United States
19 Attorney, counsel for the United States of America, and Rene L. Valladares,
20 Federal Public Defender, and Joanne Diamond, Assistant Federal Public Defender,
21 counsel for John Anthony Miller, that the calendar call currently scheduled for
22 January 8, 2024, and the trial scheduled for January 23, 2024, be vacated and set
23 to a date and time convenient to this Court, but no sooner than sixty (60) days.

24 IT IS FURTHER STIPULATED AND AGREED, that the parties herein
25 shall have to and including February 27, 2024, to file any and all pretrial motions
26 and notices of defense.

1 IT IS FURTHER STIPULATED AND AGREED, by and between the
2 parties, that they shall have to and including March 12, 2024, to file any and all
3 responsive pleadings.

4 IT IS FURTHER STIPULATED AND AGREED, by and between the
5 parties, that they shall have to and including March 19, 2024, to file any and all
6 replies to dispositive motions.

7 The Stipulation is entered into for the following reasons:

8 1. Although the government produced initial discovery prior to the
9 indictment being filed, additional discovery is outstanding.

10 2. Defense counsel requires additional time to review discovery and
11 conduct investigation in this case to determine whether there are any pretrial
12 issues that must be litigated and whether the case will ultimately go to trial or will
13 be resolved through negotiations.

14 3. The defendant is incarcerated and does not object to the continuance.

15 4. The parties agree to the continuance.

16 5. The additional time requested herein is not sought for purposes of
17 delay, but to allow counsel for defendant sufficient time to effectively review and
18 complete investigation of the discovery materials provided.

19 6. Additionally, denial of this request for continuance could result in a
20 miscarriage of justice. The additional time requested by this Stipulation is
21 excludable in computing the time within which the trial herein must commence
22 pursuant to the Speedy Trial Act, Title 18, United States Code, Section
23 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section
24 3161(h)(7)(B)(i), (iv).
25
26

1 This is the first stipulation to continue filed herein.

2 DATED: December 29, 2023.

3 RENE L. VALLADARES
4 Federal Public Defender

JASON M. FRIERSON
United States Attorney

5 By /s/ Joanne Diamond
6 JOANNE DIAMOND
Assistant Federal Public Defender

By /s/ Jacob Haile Operskalski
JACOB HAILE OPERSKALSKI
Assistant United States Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN ANTHONY MILLER,

Defendant.

Case No. 2:23-cr-00221-JAD-DJA

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. Although the government produced initial discovery prior to the indictment being filed, additional discovery is outstanding.

2. Defense counsel requires additional time to review the discovery and conduct investigation in this case to determine whether there are any pretrial issues that must be litigated and whether the case will ultimately go to trial or will be resolved through negotiations.

3. The defendant is incarcerated and does not object to the continuance.

4. The parties agree to the continuance.

5. The additional time requested herein is not sought for purposes of delay, but to allow counsel for defendant sufficient time to effectively review and complete investigation of the discovery materials provided.

6. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section 3161(h)(7)(B)(i), (iv).

CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity to effectively and thoroughly prepare for trial, taking into account the exercise of due diligence.

The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United States Code, Section § 3161 (h)(7)(A), when the considering the factors under Title 18, United States Code, § 3161(h)(7)(B)(i), (iv).

ORDER

IT IS THEREFORE ORDERED that the parties herein shall have to and including February 27, 2024 to file any and all pretrial motions and notice of defense.

IT IS FURTHER ORDERED that the parties shall have to and including March 12, 2024 to file any and all responses.

IT IS FURTHER ORDERED that the parties shall have to and including March 19, 2024 to file any and all replies.

1 IT IS FURTHER ORDERED that trial briefs, proposed voir dire questions,
2 proposed jury instructions, and a list of the Government's prospective witnesses
3 must be electronically submitted to the Court by the ____ day of _____,
4 2024.

5 IT IS FURTHER ORDERED that the calendar call currently scheduled for
6 January 8, 2024, at the hour of 1:30 p.m., be vacated and continued to
7 _____ at the hour of __:__ __.m.; and the trial currently scheduled
8 for January 23, 2024, at the hour of 9:00 a.m., be vacated and continued to
9 _____ at the hour of __:__ __.m.

10 DATED this ____ day of _____, 202__.

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12 _____
13 UNITED STATES DISTRICT JUDGE
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